28 pgs.

MONTANA LEGISLATIVE HISTORY

Chapter 529 ~~19~~ 2001

Bill H 560 S _____ Original bill & history X C

H. Committee on JUDICIARY			S. Committee on JUDICIARY		
Hearing Date(s) & EXEC. ACTION	2/16	X C	Hearing Date(s)	3/12	X C
		C	EXEC. ACTION	3/15	X C
		C			C
		C			C
Date Out		C			

Did this bill originate in an interim committee? ____Yes ____No

Committee _____ Report _____

Bill Draft Number: LC0828
Bill Type - Number: HB 560
Short Title: Revise law on offer of settlement
Primary Sponsor: Mark Noennig

Bill Actions - Current Bill Progress: Became Law

Bill Action Count: 52

Action - Most Recent First	Date	Votes Yes	Votes No	Committee
Chapter Number Assigned	05/01/2001			
(H) Signed by Governor	05/01/2001			
(H) Transmitted to Governor	04/21/2001			
(S) Signed by President	04/21/2001			
(H) Signed by Speaker	04/19/2001			
(C) Sent to Printing	04/16/2001			
(H) Returned from Enrolling	04/16/2001			
(H) Sent to Enrolling	04/13/2001			
(H) 3rd Reading Passed as Amended by Senate	04/13/2001	99	1	
(H) Scheduled for 3rd Reading	04/13/2001			
(H) 2nd Reading Senate Amendments Concurred	04/12/2001	99	1	
(H) Scheduled for 2nd Reading	04/12/2001			
(S) Returned to House with Amendments	03/24/2001			
(S) 3rd Reading Concurred	03/24/2001	48	0	
(S) 2nd Reading Concurred on Voice Vote	03/23/2001	50	0	
(S) Scheduled for 2nd Reading	03/23/2001			
(S) Scheduled for 2nd Reading	03/22/2001			
(S) Scheduled for 2nd Reading	03/21/2001			
(C) Sent to Printing	03/16/2001			
(S) Committee Report--Bill Concurred as Amended	03/16/2001			(S) Judiciary
(S) Committee Executive Action--Bill Concurred as Amended	03/16/2001	7	1	(S) Judiciary
(S) Hearing	03/12/2001			(S) Judiciary
(S) Referred to Committee	02/28/2001			(S) Judiciary
(S) First Reading	02/28/2001			
(H) Transmitted to Senate	02/21/2001			
(H) 3rd Reading Passed	02/21/2001	98	2	
(H) Scheduled for 3rd Reading	02/21/2001			
(H) Motion Carried	02/20/2001			
(H) 2nd Reading Passed	02/20/2001	97	2	
(H) Scheduled for 2nd Reading	02/20/2001			
(C) Sent to Printing	02/17/2001			
(H) Committee Report--Bill Passed as Amended	02/16/2001			(H) Judiciary
(H) Committee Executive Action--Bill Passed as Amended	02/16/2001	19	0	(H) Judiciary
(H) Hearing	02/16/2001			(H) Judiciary
(C) Introduced Bill Text Available Electronically	02/12/2001			
(H) Referred to Committee	02/12/2001			(H) Judiciary
(H) First Reading	02/12/2001			
(H) Introduced	02/12/2001			

(C) Draft Delivered to Requester	02/09/2001
(C) Draft Ready for Delivery	02/08/2001
(C) Draft in Assembly/Executive Director Review	02/07/2001
(C) Draft in Final Drafter Review	02/07/2001
(C) Bill Draft Text Available Electronically	02/07/2001
(C) Draft in Input/Proofing	02/07/2001
(C) Draft to Drafter - Edit Review [SAB]	02/07/2001
(C) Draft in Edit	02/06/2001
(C) Draft in Legal Review	02/06/2001
(C) Draft On Hold	02/05/2001
(C) Draft to Requester for Review	02/01/2001
(C) Draft On Hold	12/19/2000
(C) Draft to Requester for Review	12/07/2000
(C) Draft Request Received	12/01/2000

Sponsor, etc.

Sponsor, etc.	Last Name/Organization	First Name	Mi
Requester	Noennig	Mark	
Drafter	Petesch	Greg	
Primary Sponsor	Noennig	Mark	

Subjects

Description	Revenue/Approp.	Vote Majority Req.	Subject Code
Civil Procedure		Simple	CIV

Additional Bill Information

Probable Fiscal Note: No
Preintroduction Required: N
Session Law Ch. Number: 529
DEADLINE
Category: General Bills
Transmittal Date: 02/23/2001
Return (with 2nd house amendments) Date: 03/31/2001

Section Effective Dates

Section(s)	Effective Date	Date Qualified
All Sections	01-OCT-01	

HOUSE BILL NO. 560

INTRODUCED BY M. NOENNIG

A BILL FOR AN ACT ENTITLED: "AN ACT ENCOURAGING THE SETTLEMENT OF LAWSUITS BY PROVIDING FOR OFFERS OF SETTLEMENT IN CERTAIN CIVIL CASES; PROVIDING FOR ENTRY OF JUDGMENT ON AN ACCEPTED SETTLEMENT OFFER; LIMITING THE ADMISSIBILITY OF A REJECTED SETTLEMENT OFFER; PROVIDING FOR THE AWARD OF COSTS; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

NEW SECTION. **Section 1. Offer of settlement.** (1) At any time more than 60 days after service of the complaint and more than 30 days before the trial begins, any party may serve upon the adverse party an offer to settle a claim for the money or property or to the effect specified in the offer. If within 10 days after the service of the offer, the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance together with proof of service of the offer and notice of acceptance with the clerk of court and the court shall enter judgment. An offer not accepted is considered withdrawn and evidence of the offer is not admissible except in a proceeding to determine costs. If the judgment finally obtained by the party receiving the offer is not more favorable than the offer, the party receiving the offer shall pay the costs incurred by the party making the offer after the offer was made. The fact that an offer is made but not accepted does not preclude a subsequent offer.

(2) When the liability of one party to another has been determined by verdict, order, or judgment, but the amount or extent of the liability remains to be determined by further proceedings, either party may make an offer of settlement. The offer has the same effect as an offer before trial, and the applicable provisions of subsection (1) apply if the offer is served within a reasonable time not less than 10 days prior to the commencement of a hearing to determine the amount or extent of liability.

(3) For the purposes of this section, costs include reasonable attorney fees.

(4) This section applies only to an action or claim for which the amount contained in a pleading is $50,000 or less, exclusive of costs, interest, and service charges, and the action or claim:

(a) arises from contract or breach of contract, other than a contract of insurance, bond, surety, or warranty; or

(b) involves real property.

NEW SECTION. **Section 2. Codification instruction.** [Section 1] is intended to be codified as an integral part of Title 25, chapter 7, part 1, and the provisions of Title 25, chapter 7, part 1, apply to [section 1].

NEW SECTION. **Section 3. Retroactive applicability.** [This act] applies retroactively, within the meaning of 1-2-109, to claims plead prior to [the effective date of this act].

NEW SECTION. **Section 4. Effective date.** [This act] is effective on passage and approval.

- END -

MINUTES

MONTANA HOUSE OF REPRESENTATIVES
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN JIM SHOCKLEY**, on February 16, 2001 at 7:00 A.M., in Room 137 Capitol.

ROLL CALL

Members Present:

Rep. Jim Shockley, Chairman (R)
Rep. Paul Clark, Vice Chairman (D)
Rep. Jeff Laszloffy, Vice Chairman (R)
Rep. Darrel Adams (R)
Rep. Gilda Clancy (R)
Rep. Aubyn A. Curtiss (R)
Rep. Bill Eggers (D)
Rep. Gail Gutsche (D)
Rep. Christopher Harris (D)
Rep. Linda Holden (R)
Rep. Joan Hurdle (D)
Rep. Jeff Mangan (D)
Rep. Brad Newman (D)
Rep. Mark Noennig (R)
Rep. Ken Peterson (R)
Rep. Diane Rice (R)
Rep. Bill Thomas (R)
Rep. Merlin Wolery (R)
Rep. Cindy Younkin (R)

Members Excused: Rep. Steven Gallus (D)

Members Absent: None.

Staff Present: John MacMaster, Legislative Branch
Mary Lou Schmitz, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: **HB 603 - 2-15-01**
HB 585 - 2-15-01
HB 563 - 2-15-01

HB 560 - 2-15-01
HB 590 - 2-15-01
HB 570 - 2-15-01

Executive Action: **HB 603 - DPAA**
HB 313 - DPAA
HB 560 - DPAA

HEARING ON HB 603

Sponsor: Rep. Jim Shockley, HD 61, Ravalli County said HB 603 is a Committee Bill which would provide a statute that would let the Attorney General know that a state agency is involved in litigation.

Proponents: Chris Tweeten, Chief Counsel for the Attorney General's office, EXHIBIT(juh39a01)

Opponents: None

Questions from Committee Members and Responses: Reps. Eggers, Peterson, Harris, Noennig, Hurdle to Mr. Tweeten.

Closing by Sponsor: Rep. Shockley closed the Hearing on HB 603 by saying he believes it is a good idea to add the concurring language Mr. Tweeten proposed. There is also a statute that provides that the Governor can secure her own counsel in certain circumstances.

EXECUTIVE ACTION ON HB 603

Motion: **REP. MANGAN** moved that **HB 603 DO PASS. #1**

Discussion: Reps. Eggers, Shockley, Harris, Noennig, .

{Tape : 1; Side : A; Approx. Time Counter : 0 - 29.8}

Motion/Vote: **REP. NOENNIG** moved that **HB 603 BE AMENDED. #2**
Motion on Noennig amendment carried unanimously 19-0.

Motion: **REP. SHOCKLEY** moved that **HB 603 DO PASS AS AMENDED. #3**

Discussion: Rep. Peterson.

Vote: Motion #3 carried unanimously 19-0.

{Tape : 1; Side : B; Approx. Time Counter : 0.1 - 4.3}

EXECUTIVE ACTION ON HB 313

Motion: **REP. NEWMAN** moved that **HB 313 DO PASS. #4**

Discussion: **Reps. Peterson, Newman.**

Motion: **REP. NEWMAN** moved that **HB 313 BE AMENDED. EXHIBIT(juh39a02) #5**

Discussion: **Reps. Newman, Younkin, Harris, Noennig, Clark, Mr. MacMaster.**

Substitute Motion: **REP. CLARK** made a substitute motion that **HB 313 BE AMENDED. #6 Withdrawn EXHIBIT(juh39a03)**

Discussion: **Reps. Mangan, Younkin, Harris, Hurdle, Peterson, Thomas. Rep. Newman explained the amendments.**

{Tape : 1; Side : B; Approx. Time Counter : 4.3 - 29.4}
{Tape : 2; Side : A; Approx. Time Counter : 0.1 - 8.9}

Vote: **Newman Motion #5 carried unanimously 19-0.**

Motion/Vote: **REP. MANGAN** moved that **HB 313 DO PASS AS AMENDED. #7 Motion carried unanimously. 19-0**

HEARING ON HB 560

Sponsor: **Rep. Mark Noennig, HD 9, Billings** said this Bill is called an "Offers of Settlement" Bill. The purpose of the Bill is to reduce frivolous claims and litigation during settlement of claims and reduce the cost of litigation. When a case is pending, within certain time limits, one party can offer to settle the case to the other party. The other party has to respond in the prescribed period of time, 10 days. They can either accept it or reject it. If they don't respond, it's rejected and if that party that rejected the offer doesn't do better than that in the final outcome, then that party is responsible to pay the other party's attorneys' fees from the date of the offer forward.

Proponents: **Bob Worthington, CEO, Montana Municipal Insurance Authority**

Carl Schweitzer, American Subcontractors Association of Montana.

Opponents: None

Informational Witness: Jacqueline Lenmark, American Insurance Association. Also speaking for Greg Van Horssen, on behalf of State Farm Insurance.

{Tape : 2; Side : A; Approx. Time Counter : 6.4 - 29.8}

Questions from Committee Members and Responses: Reps. Harris, Noennig, Peterson, Clancy, Mangan.

Closing by Sponsor: Rep. Noennig closed the Hearing on HB 560.

HEARING ON HB 563

Sponsor: Rep. Paul Clark, HD 72, Trout Creek said this Bill is a simple companion Bill to his DNA Bill. Now there is a statute of limitations for all felonies in the State of Montana which is limited to five years. That's true for all felonies except for deliberate, mitigated, or negligent homicide which may be commenced at any time.

This Bill would add certain sexual offenses to the list of offenses for which a prosecution may be commenced at any time.

Proponents: John Connor, Attorney General's Office and Montana County Attorneys' Association, said this Bill makes good public policy sense to not close the door on the opportunity to prosecute these cases if the evidence is there. He believes people ought to be responsible for their actions and if they don't take responsibility for them then they ought to be held accountable through our judicial system.

Opponents: None

Questions from Committee Members and Responses: Reps. Younkin to Mr. Connor, Peterson, Noennig, Laszloffy.

Closing by Sponsor: Rep. Clark closed the Hearing on HB 563.

Sponsor: Rep. Joan Hurdle, HD 13, Billings said there are two sections to this Bill. Section 1 asks that migrant farm workers' employers calculate the income eligibility to determine medical assistance and Section 2 asks the Department of Public Health and Human Services to apply for a waiver and submit this plan to HICFA to make sure it will work.

Section 3, Page 2 asks that medical assistance be considered automatically under some circumstances until the details are verified. Automatic eligibility is done with CHIP. If a child needs medical care right away, they get it and then eligibility can be determined later.

This will be a big savings in administrative costs and is something that is done in many other programs.

Medical assistance must be provided to a child who is under 19 during the period of presumptive eligibility and mostly done with Medicaid and are now asking that it be done under CHIP.

Proponents: Rep. Jeff Mangan, HD 45, Great Falls said he administered a program that dealt with migrant farm workers in Billings and Eastern Montana for a number of years so he is qualified to speak on this subject. This is a major problem trying to get projected employment financial data because there are two migrant streams. One works through Eastern Montana for sugar beet farms and one in Western Montana dealing with the cherries. It is a state-wide need as farm workers travel with their families. There are several federal programs available to migrant farm workers currently, including education. There is some financial assistance as well as some food assistance for those same families. Medical care for children is a big issue. When children need medical assistance they need it immediately.

{Tape : 4; Side : A; Approx. Time Counter : 16.7 - 27.2}
{Tape : 4; Side : B; Approx. Time Counter : 0.1 - 0.4}

Opponents: None

Questions from Committee Members and Responses: Reps. Newman, Rice, Clancy, Adams, Peterson to Rep. Hurdle.

Closing by Sponsor: Rep. Hurdle closed the Hearing on HB 590.

{Tape : 4; Side : B; Approx. Time Counter : 0.4 - 8.9}

EXECUTIVE ACTION ON HB 560

Motion: **REP. NOENNIG** moved that **HB 560 DO PASS. #8**

Discussion: **Reps. Eggers, Noennig, Clancy, Laszloffy, Peterson, Harris, Younkin**

Motion/Vote: **REP. PETERSON** moved that **HB 560 BE AMENDED. #9**
Motion carried unanimously 19-0.

Motion: **REP. NOENNIG** moved that **HB 560 DO PASS AS AMENDED. #10**

Discussion: **Reps. Noennig, Harris, Younkin, Peterson, Newman.**

Vote: **Motion #10 carried unanimously 19-0.**

{Tape : 4; Side : B; Approx. Time Counter : 8.9 - 25.5}

HOUSE OF REPRESENTATIVE

ROLL CALL

JUDICIARY COMMITTEE

DATE 2-16-01

NAME	PRESENT	ABSENT	EXCUSED
REP. JIM SHOCKLEY, CHAIR	✓		
REP. JEFF LASZLOFFY, V.C.	✓		
REP. PAUL CLARK, V.C.	✓		
REP. DARREL ADAMS	✓		
REP. GILDA CLANCY	✓		
REP. AUBYN CURTISS	✓		
REP. BILL EGGERS	✓		
REP. STEVE GALLUS			✓
REP. GAIL GUTSCHE	✓		
REP. CHRISTOPHER HARRIS	✓		
REP. LINDA HOLDEN	✓		
REP. JOAN HURDLE	✓		
REP. JEFF MANGAN	✓		
REP. BRAD NEWMAN	✓		
REP. MARK NOENNIG	✓		
REP. KEN PETERSON	✓		
REP. DIANE RICE	✓		
REP. BILL THOMAS	✓		
REP. MERLIN WOLERY	✓		
REP. CINDY YOUNKIN	✓		

House of Representatives

Roll Call Vote

JUDICIARY COMMITTEE

DATE 2-16-01 Bill NO. HB560 NUMBER #8

MOTION: Rep. Noennig moved D. Pass

Name	AYE	NO
Rep. Jim Shockley, Chairman		
Rep. Jeff Laszloffy, Vice Chair Majority		
Rep. Paul Clark, Vice Chair Minority		
Rep. Darrel Adams		
Rep. Gilda Clancy		
Rep. Aubyn Curtiss		
Rep. Bill Eggers		
Rep. Steve Gallus		
Rep. Gail Gutsche		
Rep. Christopher Harris		
Rep. Linda Holden		
Rep. Joan Hurdle		
Rep. Jeff Mangan		
Rep. Brad Newman		
Rep. Mark Noennig		
Rep. Ken Peterson		
Rep. Diane Rice		
Rep. Bill Thomas		
Rep. Merlin Wolery		
Rep. Cindy Younkin		

House of Representatives

Roll Call Vote

JUDICIARY COMMITTEE

DATE 2-16-01 Bill NO. HB 560 NUMBER #9

MOTION: Rep. Peterson an amendment

Motion carried unanimously

Name	AYE	NO
Rep. Jim Shockley, Chairman	✓	
Rep. Jeff Laszloffy, Vice Chair Majority	✓	
Rep. Paul Clark, Vice Chair Minority	✓	
Rep. Darrel Adams	✓	
Rep. Gilda Clancy	✓	
Rep. Aubyn Curtiss	✓	
Rep. Bill Eggers	✓	
Rep. Steve Gallus		
Rep. Gail Gutsche	✓	
Rep. Christopher Harris	✓	
Rep. Linda Holden	✓	
Rep. Joan Hurdle	✓	
Rep. Jeff Mangan	✓	
Rep. Brad Newman	✓	
Rep. Mark Noennig	✓	
Rep. Ken Peterson	✓	
Rep. Diane Rice	✓	
Rep. Bill Thomas	✓	
Rep. Merlin Wolery	✓	
Rep. Cindy Younkin	✓	

19 0

House of Representatives

Roll Call Vote

JUDICIARY COMMITTEE

DATE 2-16-01 Bill NO. HB560 NUMBER #10

MOTION: Rep. Noennig moved DPAA

Motion carried unanimously 19-0

Name	AYE	NO
Rep. Jim Shockley, Chairman	✓	
Rep. Jeff Laszloffy, Vice Chair Majority	✓	
Rep. Paul Clark, Vice Chair Minority	✓	
Rep. Darrel Adams	✓	
Rep. Gilda Clancy	✓	
Rep. Aubyn Curtiss	✓	
Rep. Bill Eggers	✓	
Rep. Steve Gallus		
Rep. Gail Gutsche	✓	
Rep. Christopher Harris	✓	
Rep. Linda Holden	✓	
Rep. Joan Hurdle	✓	
Rep. Jeff Mangan	✓	
Rep. Brad Newman	✓	
Rep. Mark Noennig	✓	
Rep. Ken Peterson	✓	
Rep. Diane Rice	✓	
Rep. Bill Thomas	✓	
Rep. Merlin Wolery	✓	
Rep. Cindy Younkin	✓	

19 0

HOUSE STANDING COMMITTEE REPORT

February 16, 2001

Mr. Speaker:

We, your committee on **Judiciary** report that **House Bill 560** (first reading copy – white) **do pass as amended**.

Signed: _____
Representative Jim Shockley, Chair

And, that such amendments read:

1. Page 1, line 14.
Strike: "an"
Insert: "a written"

2. Page 1, line 24.
Strike: "an"
Insert: "a written"

- END -

Committee Vote:
Yes 19, No 0.

391607SC.hdc
2/16

MONTANA HOUSE OF REPRESENTATIVES
VISITORS REGISTER

DATE 2-16-01

BILL NO. HB 560

SPONSOR(S) Rep. Maenning

TYPE

PROPONENT (P) OPPONENT (O) INFORMATIONAL (I)

PLEASE PRINT

PLEASE CIRCLE	NAME	ADDRESS	REPRESENTING
P O I	Ron Ashbraner	Helena	State Farm Ins.
P O I	Bob Worthington	Helena	MMIA
P O I			
P O I			
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Please leave prepared testimony with Secretary. Witness Statement forms are available if you care to submit written testimony

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MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on March 12, 2001 at 10:00 A.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Duane Grimes, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Steve Doherty (D)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Walter McNutt (R)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)

Members Excused: None.

Members Absent: None.

Staff Present: Valencia Lane, Legislative Branch
Cecile Tropila, Committee Secretary

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearing(s) & Date(s) Posted: HB 559, HB 560, 3/7/2001

HEARING ON HB 559

Sponsor: **REP. MARK NOENNIG, HD 9, BILLINGS**

Proponents: **Ronda Carpenter, Lobbyist, MT. Housing Providers**
Chip Watts, Glentana Mobile Court, Billings
Ken Manning, Mobile Court, Kalispell
Peggy Trenk, MT. Assoc. of Realtors
Ronny Roach, Landlord, Great Falls
Vern Fischer, MT. Landlord Assoc., Great Falls

CHAIRMAN GROSFIELD thought if this bill passed and the landlord received the attorney's fees then the landlord should turn it over to the attorney after the three day notice period. **REP. NOENNIG** said they are responsible to pay the attorneys whether they collect the fees or not.

{Tape 2; Side B}

CHAIRMAN GROSFIELD asked, regarding the incident that was mentioned from one of the proponent's testimony, how to justify between a dispute of a landlord and tenant or a crime. **REP. NOENNIG** said if a crime was involved then there wouldn't be an eviction. **Ronda Carpenter** said with this incidence the tenant was the perpetrator, but the victim could not be evicted due to the law that provides protection of the tenants.

CHAIRMAN GROSFIELD asked if this is a small percentage of tenants needing to be evicted and is it generally tenants who own their own mobile home. **Ronda Carpenter** said this section of the law does not apply to those who own the mobile home. She explained if someone rents a mobile home then they fall under the Landlord-Tenant Act and are provided with this section of the bill.

CHAIRMAN GROSFIELD asked who this bill applies to. **Ronda Carpenter** answered only the owners of mobile homes who rent spaces in a mobile home park.

CHAIRMAN GROSFIELD asked about the three day notice period and how this is effective. **Ronda Carpenter** explained the eviction process and options for tenants.

SEN. DOHERTY asked if the time frames were accurate and if they can be changed. **Klaus Sitte** said the sequence of events is accurate and applies only in one-tenth of evictions that would take place.

Closing by Sponsor:

REP. MARK NOENNIG, HD 9, BILLINGS, summarized the bill and the changes that would assist the landlord. He felt this bill to be balanced and fair. He said there is no effect to duties of a landlord and this bill would offer assistance between the tenant and a landlord.

HEARING ON HB 560

Sponsor: REP. MARK NOENNIG, HD 9, BILLINGS

Proponents: **Stan Kalezyck, Attorney, Helena**

Opponents: **None**

Opening Statement by Sponsor:

REP. MARK NOENNIG, HD 9, BILLINGS, said the purpose of this bill is to reduce cost of litigation, settlement of claims and to reduce frivolous lawsuits. He explained how one party could settle in a case and the other party would have the best interests of clients. Allowing one party to make an offer to the other party to settle a case. He read a letter from a district judge **EXHIBIT(jus56a08).** He stated this bill would cover cases involving less than a $50,000 claim and the costs would be minimal.

Proponents' Testimony:

Stan Kalezyck, Attorney, Helena, said he represents the Montana Insurance Authority Group and the group supports this bill. He felt this bill has a limited application and the benefit forces both plaintiffs and defendants to be realistic in evaluating their cases.

Opponents' Testimony: None

Questions from Committee Members and Responses:

SEN. DOHERTY asked if this would apply to both plaintiffs and defendants and how to determine judgement. **REP. NOENNIG** said this language is current law. He said the judgement would deal with the settlement and it becomes favorable.

SEN. DOHERTY thought this would only work in a bifurcated trial. He didn't understand how this bill would do any good dealing with Subsection 2 if a bifurcated trail was followed. **REP. NOENNIG** said this language is current law and would work in a bifurcated trail.

SEN. DOHERTY asked if a written offer to settle should be accepted as well as a written offer of saying no. **REP. NOENNIG** thought the language stated this within the bill. He said if the offer was not accepted in writing then there would need to be a rejection.

SEN. O'NEIL asked about offering an amendment to strike Section 4 from this bill. **REP. NOENNIG** said if Section 4 was struck then lobbyists and legislatures would resist the bill and it may die.

SENATE JUDICIARY
Exhibit No. 8
Date 03/12/01
Bill No. SB 560

Russell C. Fagg
District Judge
Thirteenth Judicial District
State of Montana

Yellowstone County Courthouse
P.O. BOX 35027 BILLINGS, MONTANA 59107

Telephone: (406) 256-2905
Fax: (406) 256-2736

Terry L. Halpin, Administrative Assistant
Angela Zielinski, Law Clerk
Laurie Robison, Court Reporter

March 12, 2001

Senate Judiciary Committee
Montana Legislature
Helena, MT 59620

RE: Support of Senate Bill 560 (Offer of Judgment)

Dear Mr. Chairman and members of the Senate Judiciary Committee:

I write to you in support of House Bill 560, Representative Noennig's bill regarding Offers of Judgment. I have long been a supporter of Offer of Judgment legislation in order to promote reasonable settlement of cases, and to put the other side on the hook for attorney's fees and costs if a reasonable settlement offer is turned down and then the declining party is less successful than the settlement offer at trial.

It is only fair that a person should be obligated to pay their attorney's fees and the other side's attorney's fees when the other side has offered to settle the case, that offer has been turned down (thus necessitating further litigation) and the party that turned down the offer is less successful than the offer at trial. Obviously, in these cases, the parties pressed forth with litigation and additional attorney's fees and costs for little good reason.

An advantage of the legislation that I understand is proposed by Rep. Noennig is both Plaintiffs and Defendants can make Offers of Judgment. Although the bill is fairly limited in it's scope, I believe it is a good first step in making parties more seriously consider settlement offers and in holding people responsible for their actions in turning down settlement offers which are found to be better than what the party achieves at trial.

I hope you favorably consider Senate Bill 560.

Sincerely yours,

Russell C. Fagg
District Court Judge

cc: Rep. Mark Noennig

DATE MARCH 12, 2001

SENATE COMMITTEE ON JUDICIARY

BILLS BEING HEARD TODAY: HB 559 & HB 560

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
JOHN VAN NORMAN	406 248-8243	MONTANA LANDLORD ASSOC	HB559	X	
Montana N. Watts	259-2177	Montana Landlord. Assoc	HB559	X	
GENE THOMPSON	406 752-4179	Montana LANDLORD ASSN	HB559	X	
Richey LINAFELTER	406 452-8276	MONTANA LANDLORD ASSOC & my SELF	HB559	X	
Ken Manning	755-4926	" " "	HB559	X	
Sandra H. Watts	406 638-2438	Montana Mobile Court, Bldgs.	HB559	X	
Chip C. WATTS	406 638-2438	Montana Mobile Court	HB559	X	
CAROL SILLINER	406 442-1931	MLA	HB559	X	
Ruby Worstell	265-2146	MLA	HB559	X	
Jack Barrett	857-3379	Landlord Assn	HB559	X	
Bill Ladwig	763-4189	Long Horn Apts	HB559	X	
Ed McHugh	442-0013	McHugh Mobile Home Park	HB559	X	
CAMERON WORSTELL	265-2146	WORSTELL RENTALS	HB 559	X	

VISITOR REGISTER

PLEASE LEAVE PREPARED STATEMENT WITH COMMITTEE SECRETARY

DATE March 12, 2001

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB 559 & HB 560

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Ronny Roach	761-0495	IPM - Great Fall	HB559	X	
Arnold Schlagel	452 1627	Investment Property Manag.	HB559	X	
VERN N. FISCHER	453-2918	MT LANDLORDS ASSN GREAT FALL	HB-559	X	
Judith R. Sheley	406-256-0982	MPA Billings	559	X	X
Lindia Grooms	406 256 9279	MPA Billings			X
John Myers	406-543-6744	Montana Peoples Action	#559		X
DAVID L. HENRY	406 252-0335	MPA- BILLINGS	559		XX
Jackie Muhs	406-245 9361	MPA- Billings	559		X
Gus Muhs	406-245 9361	"	559		X
Klaus Sitte	542-8243	Missoula	559		X
MELINDA HINTZ	406 829-3820	MT Peoples Action MISSOULA - MPA	559		X
Mary Bouchard	406 626-1957	Missoula - MPA	559		X
Cidra Pincus	406 582-8206	Bozeman MT Peoples Action	559		X

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DATE 3-12-01

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: HB559 & HB560

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Alana Mueller	(406) 587-8957	Montana Peoples Action	HB 559		X
Peggy Trew	443-4032	MT. Assoc. of Realtors	HB559	X	
Lora Dalton	406 586-3499	Montana Peoples Action	HB559		X
Linda Henry	406-573-5403	MT People's Action	559		X
Tina Cane	406 728 5297	MT " "	559		X
Bellana Kersten	442-0454	" " "	559		X
Lynnie Hodges	728-5572	" " "	559		X
Rebecca Holloway	728-5297	" " "	HB 559		X
P.J. McHugh	442-0013	McHugh Mobile Home Park	HB 559	X	
Derek Birnie	224-5297	MT People's Action	HB 559		X
Wendy Yang	495 0497	Wael	559		X
Rebecca Mood	449-0124	MWH / MTLA	559		X
Lynda Carpenter	590-2659	MT Hsng Providers	559	X	

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DATE 3-12-01

SENATE COMMITTEE ON Judiciary

BILLS BEING HEARD TODAY: _____

PLEASE PRINT

NAME	PHONE	REPRESENTING	BILL #	SUPPORT	OPPOSE
Joseph Grooms	406 2569249	Montana Wolf Act	559		X
LiLa Pinkerton	406 587-7095	" Bozeman	559		X
Thomas Harnden	5220548	Montana Peoples Action Bozeman	559		✓
Stu Kelly	443 6620	MT Municipal Authority	560	✓	

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MINUTES

MONTANA SENATE
57th LEGISLATURE - REGULAR SESSION
COMMITTEE ON JUDICIARY

Call to Order: By **CHAIRMAN LORENTS GROSFIELD**, on March 15, 2001 at 9:05 A.M., in Room 303 Capitol.

ROLL CALL

Members Present:

Sen. Lorents Grosfield, Chairman (R)
Sen. Duane Grimes, Vice Chairman (R)
Sen. Al Bishop (R)
Sen. Steve Doherty (D)
Sen. Mike Halligan (D)
Sen. Ric Holden (R)
Sen. Walter McNutt (R)
Sen. Jerry O'Neil (R)
Sen. Gerald Pease (D)

Members Excused: None.

Members Absent: None.

Staff Present: Anne Felstet, Committee Secretary
Valencia Lane, Legislative Branch
Jodi Pauley, Transcriptionist

Please Note: These are summary minutes. Testimony and discussion are paraphrased and condensed.

Committee Business Summary:

Hearings and Dates Posted: HB 290, HB 360, HB 434, HB 563
Executive Action: HB 560

HEARING ON HB 290

Sponsor: **REP. BUTCH WADDILL, HD 62, Florence**

Proponents:

Kirsten LaCroix, Missoula Co. Prosecutor
Kelly Cogley, Women's Law Caucus-U.M.
Julie Johnson, Women's Law Caucus

SEN. O'Neil asked if this bill is also taking into consideration all of the other cases that doesn't include DNA. **Pam Bucy** said yes it does.

Closing by Sponsor:

REP. CLARK said this bill is asking the question of what crimes should there be a statute of limitations and if there is a statute of limitation why not have one for murder also. He urged passage of HB 563. ***{Tape : 3; Side : A; Approx. Time Counter : 7.3 - 21.6}***

EXECUTIVE ACTION ON HOUSE BILL 560

Motion: **REP. O'NEIL** moved HB 560 **BE CONCURRED IN.**

Discussion:

SEN. GRIMES said this could apply to other cases as well and this a good first step. He asked what about the word written on line 14 and line 24. **Valencia Lane**, Legislative Staff, said this is a good change. She said if there is a dispute in the terms it is good to have it written down.

SEN. GRIMES said not only can a settlement be offered by the defendant but also by the plaintiff. **Valencia Lane** explained the language on lines 19-21, and said this is not common because it does allow the plaintiff to make an offer.

SEN. GRIMES said perhaps it should be amended so that it is prorated. They would get a prorated portion of the attorney fees depending on how much the difference was.

SEN. O'Neil said he felt they are beyond their jurisdiction to even consider this bill. Article 7-2-3 says the Supreme Court may make rules governing practice and procedure for all other courts. He read rule 68 of the rules and procedures of this statute. He said they are amending rules that the Supreme Court has made.

Motion: **SEN. O'Neil** withdrew his motion. ***{Tape : 4; Side : A; Approx. Time Counter : 0 - 2.9}***